IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8347 OF 2005

IN

CRIMINAL APPEAL NO. 434 OF 2002

C.C. NAGPURE ..APPLICANT

V/S

SHRI SHRIRANG @ APPA DAJI DEOKAR

& ORS. ..RESPONDENTS

NONE FOR THE APPLICANT.

MR. Y.S. SHINDE - APP FOR STATE.

CORAM: V.M. KANADE, J.

DATE : 14TH SEPTEMBER, 2007.

P.C.

1. None appears on behalf of the applicant. Even yesterday when the matter was called out, counsel for the applicant was absent. Hence the application is dismissed for want of prosecution.

(V.M. KANADE, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8347 OF 2005

IN

CRIMINAL APPEAL NO. 434 OF 2002

C.C. NAGPURE ..APPLICANT

V/S

SHRI SHRIRANG @ APPA DAJI DEOKAR

& ORS. ..RESPONDENTS

MR. DHAIRYASHEEL A. NALAWADE FOR THE APPLICANT.
MR. Y.S. SHINDE - APP FOR STATE.

CORAM: V.M. KANADE, J.

DATE : 14TH SEPTEMBER, 2007.

P.C.

1. Heard learned counsel for the Applicant. Application is restored to file for the reasons mentioned in the application.

2. By the present appeal the applicant is challenging the order dated 12th October, 2001 passed by the Additional Chief Metropolitan Magistrate, 47th Court,

Esplanade, Mumbai, whereby the Magistrate was pleased to

acquit the accused for the offence punishable under section 135(1)(a), section 135(1)(b) read with section 135(1)(i) of the Customs Act and section 120-B of the Indian Penal Code. I have perused the impugned order. Four persons were apprehended on the common passage on the 3rd floor of the building known as "Industrial Building". Two panchas were called and they were searched. During search they were found to be in possession of three bundles of thick gold wires. It was valued at Rs. 21,10,000/-. Five witnesses were examined by the prosecution in support of their case. The Magistate has recorded the finding that the gold lagdies were not seized from the possession of accused Nos. 1 and 2. The statements of other accused which were recorded under section 108 of the Customs Act could not be proved as they were not examined by the prosecution and P.W. 4 Narayan Verma turned hostile and did not support the prosecution case. I do not find any infirmity in the order passed by the trial court. The view taken by the trial court cannot be sustituted by taking a different view. The applicant has tendered the copy of the notes of evidence I perused the same. The finding recorded by

the trial court borne out from the records. Hence relief is refused. Application is dismissed.

(V.M. KANADE, J.)